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MARGARET KEIPER and DAIL
KEIPER, JR., Individually and as the
Successors-in-Interest to DAIL
KEIPER, SR., Deceased

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11 MARGARET KEIPER and DAIL
12 KEIPER, JR., Individually and as the
13 Successors-in-Interest to DAIL
KEIPER, SR., Deceased,

14 Plaintiffs,

15 v.

16 VICTOR VALLEY TRANSIT
17 AUTHORITY, a Governmental entity;
DINORAH AGUILAR; TRANSDEV
SERVICES, INC., A Maryland
Corporation; VEOLIA
18 TRANSPORTATION SERVICES,
INC., A Corporation; STEVEN KILTY;
FBN TRANSPORTATION, LLC, a
Wisconsin Limited Liability Company;
MARDAN TRANSPORTATION LLC,
a Wisconsin Limited Liability
Company; AMSTON SUPPLY, INC., a
Wisconsin Corporation; and DOES 1
22 through 100, inclusive,

23 Defendants.

25 AND ALL RELATED ACTIONS

Case No. 5:15-cv-00703-BRO (SPx)
JOINT RULE 26(f) SCHEDULING
CONFERENCE REPORT

Judge: Hon. Beverly Reid O'Connell
Date: September 14, 2015
Time: 1:30 p.m.
Crtrm.: 14

Trial Date: None

1 Pursuant to Federal Rule of Civil Procedure 26(f), Local Rule 26-1 and this
2 Court's July 7, 2015, Order Setting Scheduling Conference (the "Order"), a
3 teleconference was held on August 24, 2015, by and between Martin D. Gross for
4 Plaintiffs Margaret Keiper and Dail Keiper, Jr., David S. Kahn for Defendants,
5 Victor Valley Transit Authority, Dinorah Aguilar, Transdev Services, Inc., and
6 Veolia Transportation Services, Inc., and Zakiya Glass for Defendant Amston
7 Supply, Inc.

8 During the meeting of counsel the Parties discussed the nature and basis of
9 their respective claims and a discovery plan. The Parties have exchanged their initial
10 disclosures, and submit this Joint Report in advance of the Scheduling Conference
11 set for 1:30 p.m. on September 14, 2015, before the Honorable Beverly Reid
12 O'Connell.

13 **A. STATEMENT OF THE CASE**

14 On or about June 2, 2014, Defendant Dinorah Aguilar was in the course and
15 scope of her agency, service and employment by Defendants Victor Valley Transit
16 Authority, Transdev Services, Inc., and Veolia Transportation Services, Inc. driving
17 a bus northbound on Ft. Irwin Truck By-Pass Road, adjacent to Fort Irwin Road
18 near its intersection with Paradise View Road, Ft. Irwin National Training Center,
19 Fort Irwin, County of San Bernardino, State of California. Defendant Dinorah
20 Aguilar while driving the bus struck and collided with a Tractor-Trailer combination
21 parked on the Truck By-Pass Road which was adjacent to Fort Irwin Road, killing
22 Dail Keiper, Sr., a fare-paying passenger on the bus.

23 **B. SUBJECT MATTER JURISDICTION**

24 This Court has subject matter jurisdiction in this matter pursuant to 28 U.S.C.
25 § 1331 and 28 U.S.C. § 1441.

26 **C. LEGAL ISSUES**

27 Plaintiffs assert the key legal issues raised in this case include:

28 Various parties have filed in various venues; motions for remand to state

1 court have been filed and denied without prejudice; and, there is at least one Third
 2 Party Complaint naming the United States Army as a defendant. There are various
 3 cross-claims for indemnity and contribution.

4 Inasmuch as the initial traffic collision report has not been released by the
 5 investigation unit of the Department of the Army, which was initially charged with
 6 the investigation in this accident, or the California Highway Patrol, which is now
 7 charged with the investigation, there is essential and necessary information which
 8 has not been accumulated, including:

- 9 ■ Identity of all bus passenger/witnesses;
- 10 ■ Video tapes of the accident from cameras located in Defendant Victor
 11 Valley Transit Authority's bus;
- 12 ■ ECM ("black box") data has not been released;
- 13 ■ Various information concerning U.S. Army procedures for truck entry
 14 to Fort Irwin.

15 The United States Army reportedly initiated a criminal investigation. The
 16 status of that investigation and the identity of the person and/or persons subject to
 17 the investigation are unknown. Therefore, at this time it is undetermined whether
 18 and to what extent the criminal investigation will interfere with civil discovery
 19 issues due to potential assertions of the Fifth Amendment privilege against self-
 20 incrimination.

21 There are two other lawsuits presently filed: *Michael Chestnut, et al. v Victor*
 22 *Valley Transit Authority, et al., Case # 5:15-cv-00762-BRO(SPx)* and *Jesus Aguilar,*
 23 *et al. v. Victor Valley Transit Authority, et al., Case # 5:15-cv-01481-BRO-SP.* (with
 24 a Rule 26(f) Scheduling Conference presently scheduled in this Court on September
 25 28, 2015). The Parties agree that a Motion to Consolidate is reasonable and
 26 anticipated.

27 There are claims filed against the United States Army by certain defendants.
 28 The United States Army has not yet made an appearance in the case or in other

1 related cases and their appearance would seem to be necessary and appropriate in
2 order to have a meaningful Scheduling Order.

3 **D. PARTIES**

4 Plaintiffs: Margaret Keiper and Dail Keiper, Jr. (“Plaintiffs”), individually
5 and as the Successors-in-Interest to Dail Keiper, Sr., Deceased.

6 Defendants: Victor Valley Transit Authority (“Victor Valley”), Dinorah
7 Aguilar (“Aguilar”), Transdev Services, Inc. (“Transdev”), Veolia Transportation
8 Services, Inc. (“Veolia”), Steven Kilty (“Kilty”), FBN Transportation, LLC
9 (“FBN”), Mardan Transportation LLC (“Mardan”), and Amston Supply, Inc.
10 (“Amston”).

11 **E. DAMAGES**

12 Dail Keiper, Sr. was killed as a result of said accident. The full extent of
13 damages as to Plaintiffs Margaret Keiper and Dail Keiper, Jr., is still undetermined.

14 **F. INSURANCE**

15 There is insurance under the Defendants’ automobile/truck policies of
16 insurance.

17 **G. MOTIONS**

18 Defendant Veolia anticipates filing an unopposed Motion to (1) consolidate
19 the three actions, (2) stay, and (3) continue all current deadlines. Defendants Mardan
20 and Amston anticipate filing under the so called “Graves Amendment” pursuant to
21 49 U.S.C. § 30106(a).

22 **H. MANUAL FOR COMPLEX LITIGATION**

23 The Parties do not view this matter as complex and the Manual for Complex
24 Litigation (current edition) should not be required or utilized to facilitate the
25 management of this case.

26 **I. STATUS OF DISCOVERY**

27 The Parties have not yet engaged in discovery. The Parties will commence
28 discovery following the Rule 26(f) Conference. Discovery is needed on liability,

1 causation and the extent of Plaintiffs' damages.

2 **J. DISCOVERY PLAN**

3 The Parties agree to the timing, form, and other requirements for disclosures
4 under Rule 26(a). Discovery will be needed on the incident and investigation of the
5 accident which occurred on June 2, 2014, as well as Decedent's injuries and
6 damages and Plaintiffs' damages. Depositions of all incidental parties will be held
7 prior to the discovery cut-off date provided by the Court.

8 Defendants believe that, in the absence of the investigative materials set forth
9 above and the lack of joinder of all lawsuits, the suggested dates for discovery cut-
10 off, expert disclosure and motion filing dates is premature.

11 **1. Discovery Phases**

12 The Parties do not propose that discovery should be conducted in phases.

13 **2. Electronically Stored Information**

14 The Parties do not anticipate issues relating to the disclosure or discovery of
15 electronically stored information at this time. The Parties will work to agree on
16 specifications regarding the production of electronically stored information, and do
17 not propose any changes in the limitations on discovery.

18 **3. Protective Order and Privilege Logs**

19 The Parties do not anticipate issues regarding claims of privilege or protection
20 as trial-preparation materials. Nor do the Parties anticipate any issues concerning the
21 preservation and/or protection of discoverable information or other potentially
22 relevant evidence.

23 **4. Adherence to Discovery Rules**

24 The Parties agree that the limitations on discovery imposed by both the
25 Federal rules of Civil Procedure of the Local Rules of the Central District of
26 California should apply and no other limitations are necessary at this time.

27 **K. DISCOVERY CUT-OFF**

28 The Parties propose April 11, 2016 as the final day for completion of

1 discovery, including resolution of all discovery motions.

2 **L. EXPERT DISCOVERY**

3 The Parties propose the following discovery schedule:

4 Initial Expert Disclosure: January 29 2016
5 Rebuttal Expert Disclosure: February 29, 2016
6 Expert Discovery Cut Off: April 29, 2016

7 **M. DISPOSITIVE MOTIONS**

8 The Parties propose May 2, 2016, as the final day.

9 **N. SETTLEMENT / ALTERNATIVE DISPUTE RESOLUTION (ADR)**

10 The Parties have not held settlement discussions up to this point. The Parties
11 would be amenable to select ADR Procedure No. 3 – the use of a private mediator.
12 The Parties request that mediation be held by May 20, 2016.

13 **O. TRIAL ESTIMATE:**

14 The Parties estimate that trial will be fifteen days.

15 **P. TRIAL COUNSEL:**

- 16 1. Martin D. Gross, as Lead Counsel for Plaintiffs;
- 17 2. David S. Kahn, as Lead Counsel for Defendants Victor Valley, Aguilar,
18 Transdev, and Veolia;
- 19 3. John “Jack” Williamson, as Lead Counsel for Defendants Kilty and
20 FBN;
- 21 4. Dan Kenney for Defendant Amston;

22 **Q. INDEPENDENT EXPERT OR MASTER:**

23 The Parties do not request the appointment of an independent expert or
24 master.

25 **R. TIMETABLE:**

26 The Schedule of Pretrial and Trial Dates form, attached hereto as Exhibit A, is
27 submitted for the Court’s review.

S. OTHER ISSUES:

The Parties have not identified any other issues requiring the Court's attention. At this time, no other orders should be entered by the Court under Fed. R. Civ. P. 26(c), except as is necessary to protect discovery materials that the parties believe, in good faith, contains information or documents that are subject to privileges or other protections under applicable laws. In addition, no orders under Fed. R. Civ. P. 16(b) and (c) are necessary at this time.

LAW OFFICES OF MARTIN D. GROSS

By: /s/ Martin D. Gross

Martin D. Gross

Attorney for Plaintiffs

MARGARET KEIPER and DAIL

KEIPER, JR., Individually and as the

Successors-in-Interest to Dail Keiper, Sr., Deceased

DATED: September 1, 2015

**WEINBERG, WHEELER, HUDGINS,
GUNN & DIAL, LLC.**

By: /s/ David S. Kahn

David S. Kahn

Marisa Rodriguez-Shapoval

Attorneys for Defendants

VICTOR VALLEY TRANSIT

AUTHORITY. DINORAH AGUILAR.

**TRANSDEV SERVICES, INC., VEOLIA
TRANSPORTATION SERVICES, INC.**

1 DATED: September 1, 2015

**HARRINGTON, FOXX, DUBROW &
CANTER, LLP**

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4

By: /s/ Daniel E. Kenney

5

Edward R. Leonard

6

Daniel E. Kenney

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Attorneys for Defendant

8

AMSTON SUPPLY, INC.

9

DATED: September 1, 2015

WILLIAMSON LAW GROUP

10

11

By:

12

John S. Williamson

13

Attorneys for Defendants and Cross-
Claimants,

14

STEVEN KILTY and FBN
TRANSPORTATION, LLC

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EXHIBIT A**SCHEDULE OF PRETRIAL AND TRIAL DATES**

Case Name: MARGARET KEIPER, et al., v. VICTOR VALLEY TRANSIT AUTHORITY, et al

Case No.: 5:15-cv-00703-BRO-SP

Matter	Time	Weeks Before Trial	Plaintiff(s) Request	Defendant(s) Request	Court Order
Trial (Jury: X) Estimated length: 15 days	8:30 am		June 28, 2016	June 28, 2016	
[Jury trial] Hearing on Motions in Limine		-1	June 20, 2016	June 20, 2016	
[Court trial] File Findings of Fact and Conclusions of Law; Hearing on Motions in Limine		-1			
Hearing on Disputed Jury Instructions	1:30 pm	-2	June 13, 2016	June 13, 2016	
Pretrial Conference; Proposed Voir Dire Qs Lodged and Agreed-to Statement of Case	3:00 pm	-5	May 23, 2016	May 23, 2016	
Motions in Limine to be filed;		-6	May 16, 2016	May 16, 2016	

Matter	Time	Weeks Before Trial	Plaintiff(s) Request	Defendant(s) Request	Court Order
Lodge Pretrial Conf. Order; File Memo of Contentions of Fact and Law; Exhibit & Witness Lists; File Status Report re Settlement; File Agreed Upon Set of Jury Instructions and Verdict Forms; File Joint Statement re Disputed Instructions, Verdicts, etc.		-7	May 9, 2016	May 9, 2016	
Last date to conduct Settlement Conference		-9	April 25, 2016	April 25, 2016	
Last day for hearing motions	1:30 pm	-10	May 2, 2016	May 2, 2016	
Discovery cut-off [Note: Expert disclosure no later than 70 days prior to this date.]		-11	April 11, 2016 March 31, 2016 (agreed) – the expert disclosure date needs to be moved to account for the 70 days	April 11, 2016	
Last Day to			March 31,	March 31,	

Matter	Time	Weeks Before Trial	Plaintiff(s) Request	Defendant(s) Request	Court Order
Amend Pleadings or Add Parties			2016	2016	

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 At the time of service, I was over 18 years of age and **not a party to this**
4 **action.** I am employed in the County of Los Angeles, State of California. My
business address is 2001 Wilshire Boulevard, Suite 205, Santa Monica, CA 90403.

5 On September 1, 2015, I served the original of the following document(s)
6 described as **JOINT RULE 26(f) SCHEDULING CONFERENCE REPORT** on
7 the interested parties in this action as follows:

8 **SEE ATTACHED SERVICE LIST**

9 **BY MAIL:** I enclosed the document(s) in a sealed envelope or package
10 addressed to the persons at the addresses listed in the Service List and placed the
envelope for collection and mailing, following our ordinary business practices. I am
11 readily familiar with this office's practice for collecting and processing
correspondence for mailing. On the same day that the correspondence is placed for
12 collection and mailing, it is deposited in the ordinary course of business with the
United States Postal Service, in a sealed envelope with postage fully prepaid.

14 I declare under penalty of perjury under the laws of the United States of
15 America that the foregoing is true and correct and that I am employed in the office
of a member of the bar of this Court at whose direction the service was made.

17 Executed on September 1, 2015, at Santa Monica, California.

19 _____
20 /s/ Martin D. Gross
21 Martin D. Gross

SERVICE LIST

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